



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Regional Office**

JAMES [REDACTED]

VA File Number
[REDACTED]

**Represented By:
GORDON A GRAHAM
Rating Decision
03/03/2021**

INTRODUCTION

The records reflect that you are a Veteran of the Peacetime and Vietnam Era. You served in the Navy from January 7, 1959 to July 16, 1962 and from October 10, 1962 to October 21, 1977. Since our last review of your claim, we received additional evidence on December 30, 2020. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

DECISION

Entitlement to an earlier effective date for increased evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft is shown due to a clear and unmistakable error. The 60 percent evaluation is assigned from December 3, 2014. The 100 percent evaluation is assigned from December 30, 2015. The 60 percent evaluation is assigned from November 29, 2018. The 100 percent evaluation is continued from June 27, 2019.

EVIDENCE

- Rating Decision, dated September 29, 2020



- Rating Decision, dated January 6, 2021
- Rating Decision, dated February 19, 2021
- Rating Decision, dated February 25, 2021
- VA Form 20-0995, Decision Review Request - Supplemental Claims, received December 30, 2020
- Federal Treatment Records dated April 2003 to November 2016 (received September 1, 2020)
- Private Treatment Records, Franciscan System Services dated December 2014 to January 2020
- Private Treatment Records, Harrison Health Partners dated June 2013
- Private Treatment Records, J. David Swift M.D, Westsound Internal Medicine PLLC, dated November 2015 to May 2018
- Letter dated February 2, 2021 from Sataya Pulukurthy, MD (Harrison Health Care Providers) with attached treatment records
- VA Form 20-0995 with a claim for coronary artery disease received May 20, 2020
- Treatment records from the Puget Sound VA Health Care System from November 2002 to June 2019

REASONS FOR DECISION

Whether the evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft was a clear and unmistakable error.

Clear and unmistakable errors are errors that are undebatable, so that it can be said that reasonable minds could only conclude that the previous decision was fatally flawed at the time it was made. A determination that there was clear and unmistakable error must be based on the record and the law that existed at the time of the prior decision. Once a determination is made that there was a clear and unmistakable error in a prior decision that would change the outcome, then that decision must be revised to conform to what the decision should have been. (38 CFR 3.105)

Entitlement to an earlier effective date for increased evaluation for ischemic heart disease status post myocardial infarction and coronary artery bypass graft is shown due to a clear and unmistakable error. Rating dated January 6, 2021 denied entitlement to an earlier effective date for a 100 percent evaluation in error when the medical evidence received allowed for a higher evaluation. You were previously granted service connection on a presumptive basis based on legislation allowing VA to concede herbicide exposure to Veterans with qualifying nautical service during the Vietnam Era in a rating decision dated September 29, 2020. (PL 116-23, 38 CFR 3.307, 38 CFR 3.309, 38 CFR 3.400) At the time of this rating you were evaluated on the available medical evidence. With your supplemental decision received December 30, 2020 you submitted additional medical evidence that allowed for higher evaluations. You submitted additional medical evidence January 4, 2021, February 11, 2021, and February 16, 2021 that further supported higher evaluations beginning December 3, 2014.

The 60 percent evaluation is assigned from December 3, 2014, based on a treatment record showing left ventricular ejection fraction limited to 35-40 percent. (38 CFR 3.400, 38 CFR



3.157)

We have assigned a 60 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Left ventricular dysfunction with an ejection fraction of 30 to 50 percent

Additional symptom(s) include:

- Continuous medication is required

A higher evaluation of 100 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Chronic congestive heart failure; or,
- Left ventricular dysfunction with an ejection fraction of less than 30 percent; or,
- Workload of three METs or less results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

The 100 percent evaluation is assigned from December 30, 2015, based on a treatment record showing left ventricular ejection fraction limited to 20-25 percent. (38 CFR 3.400, 38 CFR 3.157)

We have assigned a 100 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Chronic congestive heart failure
- Left ventricular dysfunction with an ejection fraction of less than 30 percent

This is the highest schedular evaluation allowed under the law for arteriosclerotic heart disease. (38 CFR 4.100, 38 CFR 4.104)

The 60 percent evaluation is assigned from November 29, 2018, based on a treatment record showing left ventricular ejection fraction limited to 35-40 percent. (38 CFR 3.400, 38 CFR 3.157)

We have assigned a 60 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Left ventricular dysfunction with an ejection fraction of 30 to 50 percent

Additional symptom(s) include:



- Continuous medication is required

A higher evaluation of 100 percent is not warranted for arteriosclerotic heart disease unless the evidence shows:

- Chronic congestive heart failure; or,
- Left ventricular dysfunction with an ejection fraction of less than 30 percent; or,
- Workload of three METs or less results in dyspnea, fatigue, angina, dizziness, or syncope. (38 CFR 4.100, 38 CFR 4.104)

The 100 percent evaluation is continued from June 27, 2019, based on a treatment record showing left ventricular ejection fraction limited to 20 percent. (38 CFR 3.400, 38 CFR 3.157)

We have assigned a 100 percent evaluation for your ischemic heart disease status post myocardial infarction and coronary artery bypass graft based on:

- Chronic congestive heart failure
- Left ventricular dysfunction with an ejection fraction of less than 30 percent

This is the highest schedular evaluation allowed under the law for arteriosclerotic heart disease. (38 CFR 4.100, 38 CFR 4.104)

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, www.va.gov.

